

REMARKS/ARGUMENTS

The present Amendment is in response to the Office Action mailed June 21, 2002 in the above-identified patent application. Enclosed herewith is a Petition requesting a two-month extension of time for resetting the deadline for responding to the Office Action from September 21, 2002, to and including November 21, 2002.

A. Objections to the Specification

The Examiner has objected to the abstract of the disclosure because it contains legal phraseology and is a run-on sentence. Applicants have submitted a substitute abstract of the disclosure to place the application in condition for allowance.

B. Claim Objections

The Examiner has objected to claims 3-16 under 37 C.F.R. 1.75(c) as being in improper form. The Examiner notes that multiple dependent claims cannot depend from other multiple dependent claims. Applicants have amended the claims such that there are no multiple dependent claims that depend from other multiple dependent claims. Applicants therefore request continued prosecution of the remaining claims, which are now in proper form for examination.

C. Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected claims 1-3 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Examiner notes that use of the phrases "such as" and "or like" render the claim indefinite. Applicants have amended claims 1-3 to particularly point out and claim the invention. Applicants have deleted the limitation "such as asphalt, concrete or like receiving surface" and added a

new dependent claim wherein a fixed road surface is asphalt or concrete.

D. Claim Rejections under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1-3 under § 102(b) as being anticipated by U.S. Patent No. 5,676,488 ("Hedblom"). Applicants submit that Hedblom does not disclose each and every aspect of Applicants' invention, and therefore does not teach or even suggest a pavement marking according to the present invention.

The pavement marking disclosed in Hedblom comprises three layers. The first layer is a base sheet, which preferably has a plurality of protuberances. See Col. 5, lines 19-25. A first topcoat layer is placed on top of the base sheet. Additionally, a second topcoat layer is placed over top of the first topcoat layer.

The Examiner contends that Hedblom teaches a heat activated adhesive material and therefore teaches Applicants' invention. The Examiner specifically relies upon Col. 11, lines 18-23 of Hedblom for support. That section teaches the use of heat to cure the first and second topcoat layers, such that each are capable of receiving additional particles such as skid resistant particles. But, this teaching concerns the curing of the first and second topcoat layers, which are located above the base layer. They are never placed directly onto a road surface. This greatly contrasts with Applicants' invention, wherein the newly amended claims specifically recite that the adhesive layer is the lower layer, which is applied *directly onto the road surface*. Indeed, Hedblom does not teach or suggest that the adhesive lower layer will be placed directly onto a road surface. Moreover, Hedblom does not teach the use of heat activated adhesive materials in the first or adhesive thermoplastic layer. Thus, the Applicants

submit that the Examiner's rejections are overcome and the claims are now in condition for allowance.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 21, 2002

Respectfully submitted,

By 

Arnold H. Krumholz

Registration No.:

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorneys for Applicants

Version With Markings to Show Changes Made**In the Abstract:**

The invention relates to a surface marking for roads with a fixed road surface, such as asphalt, concrete or like receiving surface, which marking essentially comprises resin, thermoplastic polymers, softeners reflecting material for better reflection of light, and friction material for increasing the friction between the roadway and the vehicle wheels, said marking comprising at least two layers, of which a first, upper layer ~~(1)~~ constitutes a wear layer, and a second, lower layer ~~(2)~~ is made of a heat-activated adhesive material.

In the Claims:

2. (Amended) ~~Marking~~ The surface marking according to Claim ~~1~~17, ~~characterized in that~~wherein said adhesive ~~the lower layer (2)~~ has an second application temperature which is equal to or slightly higher than its softening point, and wherein said second ~~which~~ application temperature is lower than ~~the~~ a first application temperature for said wear layer ~~other layers~~.

3. (Amended) ~~Marking~~ The surface marking according to Claim ~~1 or 2~~ characterized in thatwherein the properties of the wear upper ~~upper~~ layer are ~~chosen~~ selected with respect to the surrounding climate and area of use, and wherein ~~in that~~ the properties of the adhesive ~~lower~~ layer are selected ~~chosen~~ with respect to optimum adhesion to a said first ~~fixed~~ road ~~predetermined receiving~~ surface.

4. (Amended) ~~Marking~~ The surface marking according to

Claim ~~2~~ or 3, characterized in ~~that~~wherein the wear upper layer is formable at ~~the~~said first application temperature.

5. (Amended) ~~Marking~~The surface marking according to ~~any of Claims 17-4~~, characterized in ~~that~~wherein said surface the marking comprises a wear-warning sheet ~~(9)~~.

6. (Amended) ~~Marking~~The surface marking according to Claim 5, characterized in ~~that~~wherein the wear-warning sheet comprises ~~consists of either the upper layer a coloring pigment contained in either said wear layer or the said adhesive or the lower layer~~ (1, 2) which has been provided with a colouring pigment.

7. (Amended) ~~Marking~~The surface marking according to Claim 5, characterized in ~~that~~wherein the wear-warning sheet ~~consists~~comprises ~~of a translucent the lower adhesive layer~~ (1, 2), which is uncoloured.

8. (Amended) ~~Marking~~The surface marking according to Claim 5, characterized in ~~that~~wherein said the wear-warning sheet (9) ~~is located placed between the said first wear layer and said adhesive layers~~ (1, 2).

9. (Amended) ~~Marking~~The surface marking according to Claim 5, characterized in ~~that~~wherein said the wear-warning sheet (9) ~~is located placed in said the first wear layer~~ (1).

10. (Amended) ~~Marking~~The surface marking according to Claim 5, characterized in ~~that~~wherein said the wear-warning sheet (9) ~~is located placed in said the adhesive layer~~ (2).

11. (Amended) ~~Marking~~The surface marking according to

claim 17~~any of the above claims, characterized in that~~wherein
said surface ~~the~~ marking comprises a reinforcing sheet ~~(8)~~.

12. (Amended) ~~Marking~~ The surface marking according to
Claim 11, ~~characterized in that~~wherein the reinforcing sheet
~~(8)~~ is located ~~placed between the~~ said first wear layer and
said adhesive layers ~~(1, 2)~~.

13. (Amended) ~~Marking~~ The surface marking according to
Claim 11, ~~characterized in that~~wherein the said reinforcing
sheet ~~(8)~~ is located ~~placed in the~~ said first wear layer ~~(1)~~.

14. (Amended) ~~Marking~~ The surface marking according to
~~any of Claims 11-13,~~ ~~characterized in that~~wherein the
reinforcing sheet ~~(8)~~ consists comprises ~~of~~ a web or a net
whose structure is visible through ~~the~~ said wear layer ~~(1)~~.

15. (Amended) ~~Marking~~ The surface marking according to
Claim 11, ~~characterized in that~~wherein the said reinforcing
sheet ~~(8)~~ is placed in the said adhesive layer ~~(2)~~.

16. (Amended) ~~Marking~~ The surface marking according to
~~any of Claims 11-15,~~ ~~characterized in that~~ wherein the said
reinforcing sheet ~~(8)~~ consists comprises ~~of~~ a glass fibre er
web or a glass fibre er net.